

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 946 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

IQBALHUSEN ABDUL MAJID

Versus

STATE OF GUJARAT

Appearance:

THROUGH JAIL for Petitioner
Smt. Siddhi Talati for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/12/1999

ORAL JUDGEMENT

The respondent filed reply to the Special Criminal Application and the same is taken on the record.

Heard learned counsel for the respondent and perused the Special Criminal Application as well as the reply filed by the respondent. Twofold prayer has been made by the petitioner. Firstly, he prays for furlough leave and

second he challenges the action of the respondent transferring to him to Special Jail at Bhuj. From the reply to the Special Criminal Application, I find that he was released on furlough from 10/4/1996 for 14 days and he was supposed to return on 24/4/96 but he was not surrendered in time and was caught by the police after 184 days.

On 12/9/97 he was released on parole leave for 5 days under the order of this court. This leave period was extended on many times and ultimately he was supposed to surrender on 8/12/97 but he did not surrender and was caught by police on 30/8/98. So, the petitioner was found to be in habit of absconding. Taking into consideration this aspect of the matter his application for furlough leave was not granted. This is not the final order. The petitioner has right to apply for furlough leave after 6(six) months of this order. The action of respondents rejecting the application of the petitioner for furlough leave cannot be said to be arbitrary and perverse.

Grievance against his transfer to Special Jail, Bhuj, it is suffice to say that looking to the conduct of the petitioner, the action of the respondents cannot be said to be arbitrary and perverse. The authority has power to transfer a convict from one prison to another prison and the reference may have to the resolution of the Home Department dated 22/10/1986.

The petitioner is in habit of making false complaints regarding his illness. He made a complaint that he is a heart patient, which was found to be incorrect. From the reply of the Special Criminal Application. I find that he is making these complaints so that he may come out of jail. It appears to have done all these things by the petitioner to get an opportunity to abscond from the police custody, which is clearly born out from his conduct to ask for relaxation in escort. I fail to see any justification in his complaint against the police escort. From this complaint an inference can be drawn that on relaxation of the police escort, it may become easier for him to abscond. The petitioner is convicted under the TADA Act and Section 302 and other sections of I.P.C.

The Hon'ble Jail Minister has also considered this matter and directed the jail authorities to transfer him to Special Jail, Bhuj.

Taking into consideration the totality of the facts of

the case, I do not find any wrong in the approach of the authorities as well as any illegality in their action of passing of the impugned order.

In the result, this Special Criminal Application fails and the same is dismissed. Rule is discharged.

(S.K.Keshote, J.)

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